

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CASCADIA WILDLANDS, THE CENTER
FOR BIOLOGICAL DIVERSITY, and
AUDUBON SOCIETY OF PORTLAND,

Plaintiffs,

v.

DOUG DECKER, in his official capacity as
Oregon State Forester with the Oregon
Department of Forestry; TOM SAVAGE, in his
official capacity as District Forester for the
Astoria District; JIM YOUNG, in his official
capacity as District Forester for the Coos
District; ANDY WHITE, in his official capacity
as the District Forester for the Forest Grove
District; and DAN GOODY, in his official
capacity as the District Forester for the
Tillamook District,

Defendants,

and

OREGON FOREST INDUSTRIES COUNCIL,
a non-profit corporation, DOUGLAS TIMBER
OPERATORS, a non-profit corporation,
HAMPTON TREE FARMS INC., an Oregon
Corporation, SENECA SAWMILL
COMPANY, an Oregon Corporation, and
SCOTT TIMBER CO., an Oregon corporation,

Intervenor-Defendants

and

ASSOCIATION OF OREGON COUNTIES,

Intervenor-Defendant.

Case No. 3:12-cv-00961-AA

JOINT STIPULATION OF DISMISSAL
WITHOUT PREJUDICE

Plaintiffs Cascadia Wildlands, the Audubon Society of Portland, and the Center for Biological Diversity (collectively “Plaintiffs”), and Defendants Doug Decker, Tom Savage, Jim, Young, Andy White, and Dan Goody, all in their official capacities (collectively “Defendants”), hereafter collectively “the Parties,” state as follows:

WHEREAS, Plaintiffs filed a complaint on May 31, 2012, and an amended complaint on December 17, 2012, alleging that Defendants are violating Section 9 of the Endangered Species Act, 16 U.S.C. § 1538, by causing “take” of marbled murrelets on the Clatsop, Tillamook, and Elliott State Forests (“the State Forests”); and

WHEREAS, on November 19, 2012, the Court granted Plaintiffs’ Motion for a Preliminary Injunction, enjoining eleven logging projects and “any further logging activities in known occupied marbled murrelet sites” on the State Forests; and

WHEREAS, on August 29, 2013, State Defendants filed a Motion to Dismiss the case on mootness grounds and submitted declarations confirming it canceled twenty-eight timber sales; and

WHEREAS, Plaintiffs (through counsel) have expressed concern about having access to information after the conclusion of this lawsuit, seek to avoid similar litigation in the future and sought an assurance of transparency out of concern for the limitations of the public records law; and

WHEREAS, in response to Plaintiffs’ concerns, the State Defendants (through counsel) have affirmed that the Oregon Department of Forestry has no plans to discontinue its customary practices in connection with responses to public records requests and will continue to provide information in compliance with Oregon’s public records law (ORS 192.410 – 192.505) following entry of judgment of dismissal in this matter; and

WHEREAS, and Intervenor-Defendants Oregon Forest Industries Council, Douglas Timber Operators, Hampton Tree Farms, Seneca Sawmill Company, Scott Timber Company,

and the Association of Oregon Counties, (collectively “Intervenors”) neither object to nor join in this Stipulation;

NOW, THEREFORE, the Parties agree and stipulate as follows:

1. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the Parties jointly stipulate to the voluntary dismissal of this action without prejudice.

2. It is the express intention of all the Parties that dismissal pursuant to this stipulation will have no preclusive effect whatsoever on any future litigation that is based on the alleged occurrence or recurrence of any claim, fact, or circumstance at issue in the present case or related to the present case.

3. Defendants shall pay to Plaintiffs the amount specified in Defendants and Plaintiffs’ separate written agreement. Plaintiffs agree to accept such payment in full satisfaction of any and all claims for attorneys’ fees and costs in this case, through and including the date of this stipulation.

4. The parties agree that the Court will retain jurisdiction to enforce paragraph 3 of this Stipulation, if necessary. *See Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 381-82 (1994).

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Each undersigned representative of the Parties certifies that he or she is fully authorized to enter into and execute the terms and conditions of this Joint Stipulation of Dismissal.

IT IS SO ORDERED this _____ day of _____, 2014.

Honorable Ann Aiken
Chief District Judge

IT IS SO STIPULATED this 5th day of February, 2014.

/s/ Daniel R. Kruse

DANIEL R. KRUSE (OSB No. 064023)
dkruse@cldc.org
130 South Park Street
Eugene, OR 97401
Tel: (541) 870.0605
Fax: (541) 484.4996
TANYA M. SANERIB (OSB No. 025526)
tsanerib@biologicaldiversity.org
Center for Biological Diversity
PO Box 11374
Portland, OR 97211
Tel: (971) 717.6407
Fax: (503) 283.5528
Attorneys for Plaintiffs

/s/ Darsee Staley

DARSEE STALEY (OSB No. 873511)
Darsee.Staley@doj.state.or.us
CHRISTINA L. BEATTY-WALTERS
(OSB No. 981634)
Tina.BeattyWalters@doj.state.or.us
Department of Justice
1515 SW Fifth Ave, Suite 410
Portland, OR 97201
Tel: (971) 673.1880
Fax: (971) 673.5000
Attorneys for Defendants